IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

INCOME-TAX APPLICATION NO. 15 OF 1996

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : J.P. DEVADHAR AND
B.P. DHARMADHIKARI, JJ.
APRIL 24, 2007.

Heard Shri Parchure, learned counsel for the applicant.

This application filed by the revenue under Section 256(2) of the Income-tax Act, 1961, was admitted on the following questions of law :

"1. Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was justified in law in holding that since the order u/s. 263 of the Income-tax Act does not exist consequential order u/s. 143(3) is of no consequence?

2. Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was justified in law in holding that incentive bonus to Development Officers of LIC is business income/professional

income and not liable to be taxed as salary income ?”

The Assessment Year involved herein is 1986-87.

In this case Assessment order was passed by the Assessing Officer as per directions given by the C.I.T. under Section 263 of the Income-tax Act, 1961, was set aside by the Tribunal on the ground that the order of C.I.T. under Section 263 has already been set aside.

Admittedly, Income-tax Application No.73 of 1994 filed by the revenue against the order of the Tribunal setting aside the order of C.I.T. passed under Section 263 of the Income-tax Act has been dismissed by us on 11.4.2007. Since the order of C.I.T. under Section 263 has already been set aside and even the reference application filed by the revenue under Section 256(2) of the Act has been rejected, present application filed by the revenue setting aside the order passed by the Assessing Officer pursuant to the order of the C.I.T. cannot be sustained.

In this view of the matter, the present application is dismissed. Rule discharged. No

costs.

JUDGE **JUDGE**

*GS.